

Subpart A—General

§ 209.1 Purpose.

Appendix A to this part contains a statement of agency policy concerning enforcement of those laws. This part describes certain procedures employed by the Federal Railroad Administration in its enforcement of statutes and regulations related to railroad safety. By delegation from the Secretary of Transportation, the Administrator has responsibility for:

(a) Enforcement of subchapters B and C of chapter I, subtitle B, title 49, CFR, with respect to the transportation or shipment of hazardous materials by railroad (49 CFR 1.49(s));

(b) Exercise of the authority vested in the Secretary by the Federal Railroad Safety Act of 1970, 45 U.S.C. 421, 431–441, as amended by the Rail Safety Improvement Act of 1988, Public Law 100–342 (June 22, 1988) (49 CFR 1.49(m)); and

(c) Exercise of the authority vested in the Secretary pertaining to railroad safety as set forth in the statutes transferred to the Secretary by section 6(e) of the Department of Transportation Act, 49 App. U.S.C. 1655(e) (49 CFR 1.49 (c), (d), (f), and (g)).

[42 FR 56742, Oct. 28, 1977, as amended at 53 FR 52920, Dec. 29, 1988; 54 FR 42905, Oct. 18, 1989]

§ 209.3 Definitions.

As used in this part—

Administrator means the Administrator of FRA, the Deputy Administrator of FRA, or the delegate of either.

Associate Administrator means the Associate Administrator for Safety, Federal Railroad Administration, or that person's delegate as designated in writing.

Chief Counsel means the Chief Counsel of FRA or his or her delegate.

Day means calendar day.

Federal hazardous material transportation law means 49 U.S.C. 5101 et seq.

Federal railroad safety laws means the provisions of law generally at 49 U.S.C. subtitle V, part A or 49 U.S.C. chap. 51 or 57 and the rules, regulations, orders, and standards issued under any of those provisions. See Pub. L. 103–272 (1994). Before recodification, these stat-

utory provisions were contained in the following statutes: (i) the Federal Railroad Safety Act of 1970 (Safety Act) (49 U.S.C. 20101–20117, 20131, 20133–20141, 20143, 21301, 21302, 21304, 21311, 24902, and 24905, and sections 4(b)(1), (i), and (t) of Pub. L. 103–272, formerly codified at 45 U.S.C. 421, 431 et seq.); (ii) the Hazardous Materials Transportation Act (Hazmat Act) (49 U.S.C. 5101 et seq., formerly codified at 49 App. U.S.C. 1801 et seq.); (iii) the Sanitary Food Transportation Act of 1990 (SFTA) (49 U.S.C. 5713, formerly codified at 49 App. U.S.C. 2801 (note)); and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act (DOT Act), as in effect on June 1, 1994 (49 U.S.C. 20302, 21302, 20701–20703, 20305, 20502–20505, 20901, 20902, and 80504, formerly codified at 49 App. U.S.C. 1655(e)(1), (2), and (6)(A)). 49 U.S.C. 20111 and 20109, formerly codified at 45 U.S.C. 437 (note) and 441(e). Those laws transferred by the DOT Act include, but are not limited to, the following statutes: (i) the Safety Appliance Acts (49 U.S.C. 20102, 20301, 20302, 20304, 21302, and 21304, formerly codified at 45 U.S.C. 1–14, 16); (ii) the Locomotive Inspection Act (49 U.S.C. 20102, 20701–20703, 21302, and 21304, formerly codified at 45 U.S.C. 22–34); (iii) the Accident Reports Act (49 U.S.C. 20102, 20701, 20702, 20901–20903, 21302, 21304, and 21311, formerly codified at 45 U.S.C. 38–43); (iv) the Hours of Service Act (49 U.S.C. 20102, 21101–21107, 21303, and 21304, formerly codified at 45 U.S.C. 61–64b); and (v) the Signal Inspection Act (49 U.S.C. 20102, 20502–20505, 20902, 21302, and 21304, formerly codified at 49 App. U.S.C. 26).

FRA means the Federal Railroad Administration, U.S. Department of Transportation.

FRA Safety Inspector means an FRA safety inspector, a state inspector participating in railroad safety investigative and surveillance activities under part 212 of this chapter, or any other official duly authorized by FRA.

Motion means a request to a presiding officer to take a particular action.

Person generally includes all categories of entities covered under 1 U.S.C. 1, including but not limited to the following: a railroad; any manager,

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supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor; however, *person*, when used to describe an entity that FRA alleges to have committed a violation of the provisions of law formerly contained in the Hazardous Materials Transportation Act or contained in the Hazardous Materials Regulations, has the same meaning as in 49 U.S.C. 5102(9) (formerly codified at 49 App. U.S.C. 1802(11)), i.e., an individual, firm, co-partnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or authority of a government or tribe when offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise, but such term does not include the United States Postal Service or, for the purposes of 49 U.S.C. 5123–5124 (formerly contained in sections 110 and 111 of the Hazardous Materials Transportation Act and formerly codified at 49 App. U.S.C. 1809–1810), a department, agency, or instrumentality of the Federal Government.

Pleading means any written submission setting forth claims, allegations, arguments, or evidence.

Presiding Officer means any person authorized to preside over any hearing or to make a decision on the record, including an administrative law judge.

Railroad means any form of non-highway ground transportation that runs on rails or electro-magnetic guideways, including (i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and (ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not

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connected to the general railroad system of transportation.

Railroad carrier means a person providing railroad transportation.

Respondent means a person upon whom FRA has served a notice of probable violation, notice of investigation, or notice of proposed disqualification.

[59 FR 43676, Aug. 24, 1994, as amended at 71 FR 77294, Dec. 26, 2006; 73 FR 72199, Nov. 26, 2008]

§ 209.5 Service.

(a) Each order, notice, or other document required to be served under this part shall be served personally or by registered or certified mail, except as otherwise provided herein.

(b) Service upon a person's duly authorized representative constitutes service upon that person.

(c) Service by registered or certified mail is complete upon mailing. An official United States Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

(d) Service of requests for admission and motions may be made by first-class mail, postage prepaid.

(e) Each pleading must be accompanied by a certificate of service specifying how and when service was made.

[42 FR 56742, Oct. 28, 1977, as amended at 54 FR 42906, Oct. 18, 1989]

§ 209.6 Requests for admission.

(a) A party to any proceeding under subpart B, C, or D of this part may serve upon any other party written requests for the admission of the genuineness of any relevant documents identified within the request, the truth of any relevant matters of fact, and the application of law to the facts as set forth in the request.

(b) Each matter of which an admission is requested shall be deemed to be admitted unless, within 30 days after receipt of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer under oath or objection addressed to the matter, signed by the party.

(c) The sworn answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit